

MAYOR & COUNCIL AGENDA COVER SHEET

MEETING DATE:

April 22, 2003,

RESPONSIBLE STAFF:

Trudy Schwarz, Community Planning Director

AGENDA ITEM:

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
X	Public Hearing **Joint**
	Historic District
	Consent Item
	Ordinance
	Resolution
X	Policy Discussion
	Work Session Discussion Item
X	Other: Adoption

PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	
Advertised	01/29/2003
	02/05/2003
	02/08/2003
	02/12/2003
New hearing date	02/21/2003
	02/26/2003
Hearing Date	03/10/2003
Record Held Open	04/15/03
Policy Discussion	04/22/03

TITLE: Z-291A

Z-291(A), Map Amendment for Hidden Creek Land Bay III

SUPPORTING BACKGROUND:

Hidden Creek I, LLC, Sandler at Hidden Creek LLC, Hidden Creek II, LLC and Churchill Development Corporation, ("applicants"), are requesting to amend the approved Zoning Map Amendment Application Z-291 by reducing the unit count from **727 dwelling units** (18 Single Family Detached, 146 Single Family Attached, 112 2-over-2 Condominium and 451 Multi-Family Apartment Units) to **457 dwelling units** (16 Single Family Detached, 325 Single Family Attached, and 116 2-over-2 Condominium Units) in accordance with §24-196 of the City Code (map amendments).

The subject property, known as Hidden Creek Land Bay III, is located east of Goshen Road, between Mid-County Highway and Girard Street and consists of approximately 56 acres. The subject property was part of the June 7, 1971 annexation resolution R-21-71 for X-096 authorizing the annexation of approximately 169 acres of land. On May 21, 2001, the Mayor and City adopted the Ordinance O-8-01 approving the map amendment application Z-291 to rezone the 56 acres of land known as Hidden Creek Land Bay III to the MXD (Mixed Use Development) Zone and a sketch plan depicting 727 dwelling units. A joint public hearing was held on March 10, 2003. All records are now closed.

The Planning Commission recommended approval of Z-291A at their April 9, 2003 meeting. (CPC attached)

Attached:

Ordinance

Planning Commission CPC (on goldenrod paper)

List of Exhibits (Exhibits in **Bold** are attached)

DESIRED OUTCOME:

Adopt ordinance to amend sketch plan Z-291.

ORDINANCE No. O-3-03

AN ORDINANCE TO AMEND SKETCH PLAN Z-291,
PREVIOUSLY APPROVED AS PART OF APPLICATION Z-291 FOR
RECLASSIFICATION TO THE MXD ZONE OF PROPERTY
KNOWN AS "HIDDEN CREEK," LOCATED ON GOSHEN ROAD,
NORTH OF GIRARD STREET AND SOUTH OF MIDCOUNTY HIGHWAY,
GAITHERSBURG, MARYLAND

Z-291A

BE IT ORDAINED, by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, that they find the following facts from the evidence of record in Zoning Map Amendment Application Z-291A:

A. The original application (Z-291), filed by Odyssey Development LLC, on behalf of the Betty Brown Casey Trust, was approved for reclassification of property known as "Hidden Creek," containing 56 acres of land, from the E-1 (Urban Employment) Zone, C-2 (General Commercial) Zone, R-A (Low Density Residential) Zone, and R-18 (Medium Density Residential) Zone to the MXD (Mixed Use Development) Zone, as well as for its accompanying sketch plan for overall development of the property. The property was part of an area annexed into the City of Gaithersburg in 1971 (Resolution R-21-71), known as the Casey/Goshen Tract, which affixed and established zoning. Ordinance O-16-81 approved Comprehensive Zoning Map Amendment Application Z-223 reclassifying and establishing zoning and reducing the potential residential dwelling unit yield to 837 for the entire annexed properties. Resolution R-19-97 adopted an amendment to the General Plan Neighborhood One amending Map Designations 1 and 5. A comprehensive zoning was last approved for the subject area in 1997 confirming the existing zoning of the property. Ordinance No. O-8-01 approved the sketch plan for Hidden Creek on May 21, 2001, as part of Zoning Map Amendment Application Z-291. This map amendment approved a mixed residential development of 727 dwelling units.

B. On February 12, 2003, Hidden Creek I, LLC, Sandler at Hidden Creek LLC, Hidden Creek II, LLC, and Churchill Development Corporation ("applicants"), submitted an application to amend the requested approval of an amendment to the Sketch Plan, known as Hidden Creek Development in Gaithersburg, Maryland. The plan proposes to reduce the number of units of the Hidden Creek Development from 727 dwelling units (18 single-family detached, 146 single-family attached, 112 two-over-two condominium, and 451 multifamily apartment units), as approved as part of Zoning Map Amendment Application Z-291, to 457 dwelling units (16 single-family detached, 325 single-family attached, and 116 two-over-two condominium units), located on Goshen Road, north of Girard Street and south of Midcounty Highway, in the Mixed Use Development (MXD) Zone.

C. The Mayor and City Council and the Planning Commission scheduled a joint public hearing on February 18, 2003; however, due to inclement weather the hearing could not be held. The Mayor and City Council and the Planning Commission rescheduled and held the joint public hearing on the proposed Sketch Plan Amendment Z-291A on March 10, 2003. The Planning Commission closed the record on March 20, but at the request of the applicants reopened the record on March 26, 2003, and closed it on April 1, 2003. The Mayor and Council closed their record on April 15, 2003. At the public hearing, testimony was received from interested and affected parties regarding the sketch plan amendment. The Planning Commission made its recommendation on April 9, 2003, and forwarded their recommendation to the Mayor and City Council for Z-291A.

The proposed reduction of the unit count from 727 dwelling units (18 single family detached, 146 single-family attached, 112 two-over-two condominium and 451 multifamily apartment units) to 457 dwelling units (16 single-family detached, 325 single-family attached, and 116 two-over-two condominium units) will lessen the impact by the development on public facilities including schools and surrounding transportation facilities. The proposed reduction conforms to the adopted Housing Policy of the 1997 City of Gaithersburg Master Plan and, in addition, complies with the Mayor and City Council endorsed Master Plan Themes and other current planning efforts relating to the pending City Master Plan Amendment. The proposed amendment will also reduce the future impact of this property on existing adjacent residential development.

D. The City Council carefully reviewed the evidence of record, including 23 exhibits, and considered all submitted testimony, documents and correspondence presented, along with the Planning Commission's recommendations for approval, and makes the following findings with respect to Application Z-291A. The proposed change to the sketch plan does not include a change of use. The request reduces the unit count from 727 dwelling units (18 single-family detached, 146 single-family attached, 112 two-over-two condominium and 451 multifamily apartment units) to 457 dwelling units (16 single-family detached, 325 single-family attached, and 116 two-over-two condominium units). The request eliminates the apartment units. The proposed change does not adversely affect the health or safety of persons residing in or working on the land in question or in the neighborhood thereof and is not detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties. There is a reduction in density proposed; therefore, there is no increased impact to the community or transportation facilities. The road network and roadway design will be improved in accordance with the requirements of the Montgomery County Department of Public Works and Transportation as required by the companion Schematic Development Plan SDP-01-006 and outlined below.

The residential unit reduction proposed within Hidden Creek will not be incompatible or inharmonious with the other existing uses or with existing and proposed adjacent development. The elimination of the apartment units reduces the impact to the adjacent residential development within Hidden Creek and the surrounding areas. The residential mix, amenities proposed, interior circulation system and proposed storm water management and sewer facilities are consistent with the

MXD Zone purposes and will provide an internally and externally compatible form of development.

E. The proposed sketch plan amendment will not be inharmonious or inconsistent with the Environmental Standard for Development Guidelines, with the exception of a Waiver of the Environmental Standards for Development Regulations SDP-01-006 approved by Resolution R-22-03. This waiver approves minimal impact to the stream valley buffer for the green trail pathway, stormwater management facilities and sewer connections. Environmental mitigation proposals will be subject to City approval but do not appear to adversely impact surrounding natural features. The number of public easements needed has been reduced and new and fewer alignments for sewer and storm water management have reduced greatly the potential environmental impact.

F. The proposed sketch plan amendment will provide adequate traffic circulation within and surrounding the proposed area. The applicants have shown via letters from the Montgomery County Department of Public Works and Transportation that the Applicants will provide needed improvements to existing transportation facilities. The applicant has also presented a satisfactory circulation plan for traffic within the proposed development. When implemented circulation on surrounding roads will satisfactorily accommodate this development.

G. Based upon the evidence of record, the City Council finds and ordains that approval of the amendment to the Hidden Creek Land Bay III Sketch Plan Z-291A will provide for a comprehensive and systematic development of the City; is capable of accomplishing the purposes of the MXD Zone [§24-160D and §24-198(c) of the Zoning Ordinance of the City of Gaithersburg], does not adversely affect the health or safety of persons residing or working in other sections of this development or in the neighborhood thereof. The approval of this Sketch Plan is consistent with and will implement the Second Addendum to the Annexation Agreement for this property. The approval of this Sketch Plan Amendment will not be detrimental to the public welfare or adversely affect the use or development of adjacent or surrounding properties, will not be incompatible or inharmonious with the other existing uses or with existing and proposed adjacent development and will not be inharmonious or inconsistent with the environmental standards of the City. Due to the passage of time since the approval of the original sketch plan changes related to accommodations of the student pupil generation and the applicants reduction in overall density and their commitment to a comprehensive package of public road improvements, the Phasing Plan within the original approval of application Z-291 is no longer necessary and is terminated. For the reasons stated above, Application Z-291A is granted and the accompanying sketch plan with Exhibits #27 through #30 of the record, as amended, is approved subject to the following conditions:

1. The proposed units allowed within the Hidden Creek Land Bay III will be revised to reduce the unit count from 727 dwelling units (18 single-family detached, 146 single-family attached, 112 two-over-two condominium and 451 multifamily apartment units) to 457 dwelling units (16 single-family detached, 325 single-family attached, and 116 two-over-two condominium units);

2. The applicant shall undertake and complete all transportation facility improvements and actions stated in the applicant's counsel's letter to Jennifer Russel, Director of the City of Gaithersburg Planning and Code Administration, dated May 7, 2001, as more fully detailed in Attachment 1 to such letter, entitled, "Hidden Creek Summary of Road Improvements Recommended by City and County," dated April 12, 2001, and Attachments 2(a), (b) and (c) to said letter of May 7, 2001, being collectively the consolidated recommendations from the Montgomery County Department of Public Works and Transportation by letters dated October 26, 2000, December 11, 2000, and January 31, 2001, to planning and transportation officials of the City.

ADOPTED by the City Council this 22nd day of April, 2003.

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this 22nd day of April, 2003. APPROVED by the Mayor of the City of Gaithersburg, this 22nd day of April, 2003.

SIDNEY A. KATZ, Mayor

THIS IS TO CERTIFY that the foregoing Ordinance was adopted by the Mayor and Council of the City of Gaithersburg, in public meeting assembled, on the 22nd day of April, 2003, and that the same was approved by the Mayor of the City of Gaithersburg on the 22nd day of, April, 2003. This Ordinance will become effective on the 13th day of May, 2003.

David B. Humpton, City Manager

COMMUNICATION: PLANNING COMMISSION

MEMORANDUM TO: Mayor and City Council

VIA: David Humpton, City Manager

FROM: Trudy M.W. Schwarz, Community Planning Director

DATE: April 10, 2003

SUBJECT: Z-291A -- Hidden Creek I, LLC, Sandler at Hidden Creek LLC, Hidden Creek II, LLC and Churchill Development Corporation.
Request to amend the approved Zoning Map Amendment Application Z-291 by reducing the unit count from 727 dwelling units (18 Single-Family Detached, 146 Single-Family Attached, 112 2-over-2 Condominium and 451 Multi-Family Apartment Units) to 462 dwelling units (16 Single-Family Detached, 330 Single-Family Attached, and 116 2-over-2 Condominium Units) on approximately 56 acres of land in accordance with §24-196 of the City Code (map amendments). The property was annexed into the City of Gaithersburg in 1971 by Resolution No. R-21-71 and rezoned to MXD (Mixed Use Development) in 2001 by Ordinance O-8-01. The subject property is located east of Goshen Road, between Midcounty Highway and Girard Street.

At its regular meeting on April 9, 2003, the Planning Commission made the following motion:

Commissioner Levy moved, seconded by Commissioner Winborne, to recommend Zoning Map Amendment Z-291A for approval to the Mayor and City Council.

Vote: 3-0 (Absent: John Bauer & Victor Hicks)

INDEX OF MEMORANDA
Z-291(A)

No.

- 1) Letter requesting publication of the Legal Advertisement in the January 29, 2003 and February 5, 2003 edition of the *Gaithersburg Gazette*
- 2) Amended Sketch Plan, Land Use
- 3) Amended Sketch Plan, Green Area
- 4) Amended Sketch Plan, Internal Roads
- 5) Amended Sketch Plan, Circulation Systems
- 6) Letter requesting publication of the Legal Advertisement in the February 7-9, 2003 Weekend and February 12, 2003 edition of the *Gaithersburg Gazette*
- 7) Mayor and City Council Ordinance O-8-01 approving application Z-291
- 8) Notice of Public Hearing as sent to properties within 200' on February 10, 2003
- 9) Reduced version of Amended Sketch Plan, Land Use, Exhibit #2
- 10) Application for Amendment to Zoning Map, Sketch Plan received Feb. 12, 2003
- 11) Mayor and City Council Agenda Cover Sheet, February 18, 2003
- 12) Certified copy of the Notice of Public Hearing as it appeared in the February 7 & 12, 2003 issue of the *Gaithersburg Gazette*
- 13) Notice of March 10, 2003 Public Hearing as sent to interested parties on February 19, 2003
- 14) List of persons notified for the March 10, 2003 Joint Public Hearing
- 15) Certified copy of the Notice of Public Hearing as it appeared in the February 21, 2003 issue of the *Gaithersburg Gazette*
- 16) Receipt for the Fee for Application for Amendment to Zoning Map, Sketch Plan Z-291(A)
- 17) Letter, received March 3, 2003, from Ms. Sears and Mr. Brown, Linowes & Blocher to the Mayor and City Council and the Planning Commission RE: Background of Hidden Creek
- 18) Amended Sketch Plan, Land Use, 8.5" by 11"
- 19) Amended Sketch Plan, Green Area, 8.5" by 11"
- 20) Amended Sketch Plan, Internal Roads, 8.5" by 11"

- 21) Amended Sketch Plan, Circulation Systems, 8.5" by 11"
- 22) Mayor and City Council Agenda Cover Sheet, March 10, 2003
- 23) **E-mail sent on March 10, 2003, from Holly Gaut**
- 24) **Transcript of Joint Public Hearings for Z-291(A) and SDP-01-006**
- 25) **Minutes of the Joint Public Hearings for Z-291(A) and SDP-01-006**
- 26) Z-291(A) and SDP-01-006 Staff Comments for the March 26, 2003 Planning Commission Meeting
- 27) Hidden Creek Land Bay III Amended Sketch Plan; Land Use
- 28) Hidden Creek Land Bay III Amended Sketch Plan; Internal Roads
- 29) Hidden Creek Land Bay III Amended Sketch Plan; Green Area
- 30) Hidden Creek Land Bay III Amended Sketch Plan; Circulation Systems
- 31) Hidden Creek Land Bay III Schematic Development Plan; Building – Lot Plan; Sheet 40 of 49
- 32) Hidden Creek Land Bay III Schematic Development Plan; Parking Distribution Plan; Sheet 41 of 49
- 33) Hidden Creek Land Bay III Schematic Development Plan; Recreation and Open Space Plan
- 34) Hidden Creek Land Bay III Schematic Development Plan; Waiver Request Plan
- 35) Hidden Creek Land Bay III Schematic Development Plan; Green Area Plan; Sheet 49 of 49
- 36) **Petition to the Mayor and City Council from residents of Whetstone Run**
- 37) Hidden Creek Land Bay III Amended Sketch Plan; Land Use, April 2003
- 38) Hidden Creek Land Bay III Amended Sketch Plan; Internal Roads, April 2003
- 39) Hidden Creek Land Bay III Amended Sketch Plan; Green Area, April 2003

From: Mary Beth Smith
To: Humpton, David B.
Date: 3/10/03 12:41PM
Subject: Fwd: Meeting 2/10/2003 - Change in Zoning Hidden Creek

>>> Holly Gaut <hgaut3@comcast.net> 03/10/03 12:18PM >>>
RE:

JOINT - Z-291(A) - Amend the Approved Zoning Map Amendment Application by Reducing the Unit Count From 727 Dwelling Units (18 Single Family Detached, 146 Single Family Attached, 112 2-Over-2 Condominium and 451 Multi-Family Apartment Units) to 462 Dwelling Units (16 Single Family Detached, 330 Single Family Attached, and 116 2-Over-2 Condominium Units) on Approximately 56 Acres of Land in Accordance With §24-196 of the City Code (Map Amendments). The Property was Annexed into the City of Gaithersburg in 1971 by Resolution No. R-21-71 and Rezoned to MXD (Mixed Use Development) in 2001 by Ordinance O-8-01. The Subject Property is Located East of Goshen Road, Between Mid-County Highway and Girard Street

Dear Mayor and City Council Members,

I would like to thank the Mayor and City Council for showing dedication to ensuring that development in our city does not outpace the resources we have to support it. I applaud your efforts to ensure that there is adequate roads, schools, and other resources available before building begins. The change to Hidden Creek on the surface appears to reduce the amount of resources needed by reducing the total number of units built. However, changing the type of units built will in fact increase the number of school resources needed..

In 2002, the Montgomery County School Board, approved a boundary change to Gaithersburg Elementary/Strawberry Knoll Elementary Schools. A study was completed that took hundreds of hours to complete. It incorporated the knowledge of the Montgomery County Schools and the input of parents and community leaders. All of the decisions reached by the school system were based on the assumption that 451 luxury apartments were to be built on this property. From past experience in the Kentlands Development, it was agreed that the luxury apartments would not generate a significant number of students. At this point, to change the type of housing from luxury apartments to townhouses would essentially make that study useless. The decision itself will become one made from ignorance instead of knowledge.

My concern is that by changing the type of housing, you could in fact be contributing to the already overwhelming problem of overcrowding in our local elementary schools. I trust that you will continue your strong position on curbing development without the proper resources to maintain the quality of life that the citizens of Gaithersburg have come to expect. Please, do not allow the developer to flood our schools with additional children, when we do not have the resources to properly educate them in a safe environment.

Sincerely,

Holly Gaut
hgaut3comcast.net



TRANSCRIPT
ON
JOINT PUBLIC HEARINGS FOR

Z-291(A)

Amend the Approved Zoning Map Amendment Application by Reducing the Unit Count From 727 Dwelling Units (18 Single Family Detached, 146 Single Family Attached, 112 2-Over-2 Condominium and 451 Multi-Family Apartment Units) to 462 Dwelling Units (16 Single Family Detached, 330 Single Family Attached, and 116 2-Over-2 Condominium Units) on Approximately 56 Acres of Land in Accordance With §24-196 of the City Code (Map Amendments). The Property was Annexed into the City of Gaithersburg in 1971 by Resolution No. R-21-71 and Rezoned to MXD (Mixed Use Development) in 2001 by Ordinance O-8-01.

The Subject Property is Located East of Goshen Road, Between
Mid-County Highway and Girard Street

SDP-01-006

Application Requests Approval of a Schematic Development Plan, Known as Hidden Creek – Land Bay III, in Gaithersburg, Maryland. The Proposed Plan Includes 462 Dwelling Units (16 Single Family Detached, 330 Single Family Attached, and 116 2-Over-2 Condominium Units) on Approximately 56 Acres of Land. This Application Also Requests a Road Code Waiver RC-29 and a Waiver of the Environmental Standards for Development Regulations. The Subject Property is Located East of Goshen Road, Between Mid-County Highway and Girard Street in the Mixed Use Development (MXD) Zone

BEFORE THE
MAYOR AND CITY COUNCIL
AND
PLANNING COMMISSION

ON

March 10, 2003

Transcribed by
Doris R. Stokes



PARTICIPANTS

MAYOR AND CITY COUNCIL

Mayor Katz
Council Vice President Edens
Council Member Alster
Council Member Marraffa
Council Member Schlichting
Council Member Somerset

PLANNING COMMISSION

Chair Keller
Vice Chair Bauer
Commissioner Levy
Commissioner Winborne

CITY ATTORNEY

Stanley D. Abrams

STAFF

Urban Design Director Schwarz
Assistant City Manager Felton

SPEAKERS FROM THE PUBLIC

Barbara Sears, *Linowes and Blocher*
Steve Gang, *Lessard Architectural Group*
Frank Bossong, *Rogers Consulting*
John Berger, *M/I Homes*
Chantal Preuninger, *4 Sanders Court*
Jim Harris, *304 Saybrooke View Drive*
Rick Marvin, *223 Little Quarry Road*

Katz This evening we will consolidate the hearings on the following two applications joint - Z-291(A) – which is to amend the approved zoning map amendment application by reducing the unit count from 727 dwelling units (18 single family detached, 146 single family attached, 112 2-over-2 condominiums and 451 multi-family apartment units) to 462 dwelling units (16 single family detached, 330 single family attached, and 116 2-over-2 condominium units) in accordance with §24-196 of the City Code (map amendments). The property was annexed into the City of Gaithersburg in 1971 by Resolution No. R-21-71 and rezoned to MXD (Mixed Use Development) in 2001 by Ordinance O-8-01. Joint Hearing - SDP-01-006 - application requests approval of a schematic development plan, known as Hidden Creek - Land Bay III, in Gaithersburg, Maryland. The proposed plan includes 462 dwelling units (16 single family detached, 330 single family attached, and 116 2-over-2 condominium units). This application also requests a road code waiver RC-29 and a waiver of the Environmental Standards for Development Regulations. The subject property is located east of Goshen Road, between Mid-County Highway and Girard Street in the Mixed Use Development family attached, on approximately 56 acres of land. Trudy Schwarz from our Planning Department will begin the hearing. Please Trudy.

Schwarz Good evening. This hearing was duly advertised in the January 29 and February 5 hearing, in the *Gaithersburg Gazette*. At the present time in the record for Z-291(A) there are 23 exhibits. In the record for SDP-01-006, there are 57 exhibits. These exhibits may be reviewed in the record files. They are referenced in an exhibit list in the file. They may be reviewed during the course of the meeting or during the regular business hours of City Hall. Any objections to the receipt of any exhibit should be noted prior to the closing of the record; otherwise they will be deemed received in evidence. What you have before you is a very complete package submitted by the applicant. We wish that we had this type of application for you at that time of policy discussion for many of our SDPs

and we are pleased that we do have that. With that I will turn the podium over to Ms. Barbara Sears who is representing the applicant.

Katz Thank you Trudy. Ms. Sears.

Sears Thank you Trudy. Good evening my name is Barbara Sears and I am an attorney with the law firm of Linowes and Blocher. Seated with me is Todd Brown of our office who has also been working hard on this matter and we represent the owners and the applicants for the revisions that you hear tonight. Probably the history is best outlined for you in the letter that we submitted dated February 28 and I think after these many years you are probably very familiar with, so why don't I just jump to the fact that on May 21, 2001, this Land Bay III that you see on the aerial was rezoned to MXD. And as part of that shortly thereafter, and...

Katz Can you get that, excuse me Barbara, can you get that, there we go. Ok. Thank you.

Sears Right. And you see the labeled Land Bay III. That is to implement the master plan, the annexation agreement was rezoned to MXD. It called a total for that Land Bay for 727 units. And as a result an SDP was filed shortly thereafter in July 2001 to implement that. Before that SDP came to you for decision, the residential deferral was imposed and this project having a pending SDP was placed on the deferral. During that year that, which actually, I guess just concluded, the area was designated as a special study area and two main concerns of the City came out of the various focus groups and dialogue and hearings. And those two main concerns were putting aside the prior approvals and the annexation was the desire to see less density. Probably about 200 less units and a desire to see rental apartments be substituted for homeownership, different types of units. So as a result and in order to resolve the ongoing disputes with moving ahead with the development, the owners and the City have

worked hard to try to come to some way to achieve the City's goals while also achieving the owners goals. And you have looked at the various terms of how that would be done through and an addendum and prior council meetings and we are now in final discussions to come to final resolution on that addendum. But as part of that, and in order to make that possible, we have submitted, depending on the final agreement, the changes to both the SDP that was approved in 2001 and I'm sorry the sketch plan that was approved in May of 2001, and the SDP which was filed but not yet acted on. And most of those changes really go to a portion of this property. There are the 10.5 acres that is in the southern portion of Land Bay III against Girard Street and also against the stream valley that was previously dedicated. Those 10.5 acres previously were proposed for development of 451 apartments, rental apartments. And as a result of the discussions and special study focus, we have modified those to provide a total of 181 townhouses in that area. So the remaining areas that the Mayor identified which are the single family detached prior townhouses and two-over-two condominiums as you will see, is essentially remain what you have seen in the past and those were well received and endorsed through the master plan focus. And so what you will see is mainly changes that result as a necessary element of implementing the townhouses on the 10.5 acres. So what is here tonight is, as the Mayor explained, the amendment to the sketch plan to change the use for that area, away from the multi-family rental apartments. It is also to deal with the construction occupancy phasing under the sketch plan that has been essentially eclipsed by the passage of time. It is to deal with amendments to the SDP and to make the necessary changes to reflect what we have discussed. And it is a series of waivers which I think you will find and I hope you do that they are the minimum necessary to accomplish the plan and they are certainly in line with other types of MXD applications that you will see. So without more, I would like to turn it over to Steve Gang who is from Lessard Architects to take you through the changes and then to turn to, well to Rogers Associates to take you

through some of the specific waivers that would be involved in implementing the application. Thank you.

Katz Thank you. Mr. Gang.

Gang Good evening Mayor and Council and Planning Board Members. My name is Steve Gang at Lessard Architectural Group. The two boards I have here are; the one on your left is the original sketch plan, land use plan, and on the right is the amendment sketch plan, land use plan. You will notice the one on the left when we originally filed it, followed basically the plan that was filed but it gave a lot of latitude which is usually the process of when you file a sketch plan. The colors are the normal master plan colors with yellow being single family, the orange being townhouses and the brown being multi-family. And you will notice that on the original plan, we were proposing the intermixing of different land uses within the different land bays and you will also notice that there was a prominent area there which we knew where the garden apartments were, the 451 garden apartments with no intermixing of uses. The one of the right is the amended sketch plan which is up for your approval. And you will notice that we got very specific. You will notice that the single families are in one area, the red which are the townhouses and the brown which are now two over two townhouse units. And that are no rental units as Barbara mentioned. And I think that big thing is, is there has been a reduction of 270 units. The open space has remained exactly the same so conceptually, the big picture items have remained the same, but we reduced the number of the units and we also became very specific on where those land uses were. The plan on the left shows the plan in relationship with the rest of Gaithersburg. You will notice that there is a tremendous amount of green space surrounding the area. As you head into the communities, this will be a great gateway for the site. The major design principles are the same as what was incorporated in the original land use and these are what are traditionally found in more traditional

neighbors as in the City and in the more newer neighborhoods such as Kentlands and Lakelands. There are a mix of uses, single family detached, two different types of single family attached of which we have both integrated garages and detached garages and also some two-over-two townhouses. And most important, there are no rental units. It is a modified grid system in which all the streets are interconnected. We felt it was very important that the units, that the fronts of the units would face the open space instead of rears of lots which are more normal in suburban development. The parking for each of the individual units are behind the lots. On street parking is there for the residents as well as to create both an atmosphere of safe pedestrian movement. There is also dedication. We dedicated think about 5.3 acres for public parking. About .7 acres to the school board. There is pedestrian system running from Goshen Road all the way across the boundary, across the property from north to south. Another important consideration we did with the plan was to allow for the future interconnection to the Summit Hill Shopping Center that has also been maintained. So the basic framework has been maintained. The biggest difference is as Barbara mentioned in the 10.5 acres is that we have incorporated a townhouse development that relates very well to the rest of the community. There's another one other thing I would like to point out to everybody and that is, there is an existing easement where the Summit Hill Shopping Center and this location. For the present time we will dedicate the necessary street for this to be a public street. And when this gets redeveloped, this particular area of the Summit Hill Shopping Center will be, when it gets redevelopment, it will be incorporated into the public street. In the meantime this will be a pedestrian mews for the units and function no different than a street. Thank you.

Sears I think if Steve could address the architecture, that would be helpful.

Gang Sure. You have seen the elevations for the other unit types. This is the elevations for the 10.5 acres. It's the townhouses for M/I Homes. What

we were all very impressed with is the just the amount of detail that have been paid to it. The different types of windows, roof materials, colors, just the whole way it has been articulated. You will even notice which is very usual for townhouse developments that the alley basically has been closed off with an archway and which there will be two different types of units coming in from both ends. The nice thing about this also is in most townhouse communities, there is linkage of open space. You usually get to see the backyards. This was designed, it was basically designed in a whole, meaning that there might be only one or two entrances into the rear alleys and that was very important for the units to hold the edges. So we think this will be a great addition to the Hidden Creek community.

Sears

One update on the current thing that Steve mentioned M/I Homes and right now there is an agreement between Sandler and Hidden Creek, Steve Sandler and M/I. And M/I would be the builder here and that is why you see these elevations. And now I would like Frank Bossong of Rodgers Consulting to review for you the status of the road code and outfalls and sewer easement that would necessitate different forms of waivers under your code.

Bossong

Good evening, Frank Bossong with Rodgers Consulting. I'm going to move over to the exhibit that is shown in black and white here to go over the various waivers that we are requesting in order to implement the plan. Most of the road code waivers are to provide a pedestrian friendly neighborhood safety, lower speeds on the roads; I'll get to that in a second. From this exhibit, hopefully everybody could see it. From this exhibit, we are basically asking for two types of waivers that we are requesting this evening. One is a stream valley, buffer waiver/flood plain waiver. And the reason we need these is one is for the sanitary sewer outfalls connection to the main truck line down the stream valley stream. As you will recall in the pass, we had three separate connections. We have been able to redesign the sewer that we have one stream valley

connection to the main truck line and that is this area which I am showing right here and this is the sewer line that will connect to the existing sewer line within the stream valley. Two other areas which go into the stream valley area buffer are for the stormwater management outfalls pipes. Basically, the drainage pipes of the stormwater management facilities. And this is from stormwater management facility B and stormwater management facility A. Again being able to discharge the stormwater management facility to the existing stream. The other stream valley buffer waiver that we are asking for is where this facility, right here, this is a requested facility by the Department of Public Works for infiltration facility. What we wanted to do is to take a certain areas of this first flush water, basically for ground water recharge. This is in a non-vegetated area. So even though it is the stream valley area, this area is presently without vegetation there. So this was a specific requirement to our request from DPW. The last stream valley buffer waiver that we are requesting is for the stream valley path system. The path system basically meanders in and out of the site and into park land as well, but it doesn't, certain areas go into the stream valley buffer. So in order to get approval for this down road, that waiver is a necessity for the plan. Now as we move into the road code waivers, there are six areas specifically for centerline radius waivers that we are requesting. Typically, this type of road will have a centerline radius of 100 feet which will allow around a 25 mph speed limit. What we want to do is lower that speed limit down. One way of doing that besides having parking along, parallel to the roadway, is to reduce the curvature of the road. What we are requesting is that the curvature be reduced down to 50 feet. This was again agreed upon by DPW. In addition to that from a safety standpoint, just in case, once in a while you have larger size trucks coming around the turn, we have bumped out the radius to a minimum of 26 feet of pavement across from face of curb to face of curb which allows safety of a vehicle passing each other. We will take that into consideration in these areas of the curvature here. The other road code waiver that we are requesting is a modification to the

standard road section. Typically in the City of Gaithersburg with this type of development, you have a two-way travel lane, 9-1/2 foot lanes, with a 7 foot parking parallel on one side. What we are requesting this evening is to modify that section with two 10 foot travel lanes with parallel parking on both sides of the street. This allows for greater parking for the development. Also, with parking on both sides, it would again, if you want say, intimidate the normal drive to slow down and be more careful and providing better pedestrian safety. And those areas that I'm talking about where we are providing parking on both sides of these shaded areas here. In conjunction with that road code section change, the planting island behind the face of the curve is reduced down to four feet. So what we have talked about with DPW and the Planning Department, instead of having shade trees in those specific areas, we will be planting ornamental trees. Staff here felt that ornamental trees will be better served then going with a shade tree. In the other areas we will have and are proposing shade trees. So you have a mixture of a shade tree and an ornamental tree throughout the development which is I think would be quite pleasing. In short, the waivers that we are requesting in order to implement the plan are before you tonight.

Katz Ok. Thank you very much.

Sears Thank you Frank. I think everything else remains as you have seen it or we have discussed in the past. The package of road improvements, we are not proposing any changes to, although the density has been reduced. Some of these road improvements are actually underway because of Land Bays I and II. So that will remain the same in terms of the public facilities. So with that I think we have pretty much covered everything except any questions you may have, we will be prepared to answer.

Katz Ms. Sears. One of our great concerns obviously has been school capacity for the entire City and this area especially. Any comment on that?

Sears Well I think we can certainly look at any aspect of that you would like. Our understanding is that with the, or our feeling was with the reduction and the density, even though there may be different generation rates applied that we would be well within what we were previously. I think the great benefit, if I may say, of perhaps the deferral has been that the time concerns with trying to fit into various capital improvements and the like has really materially been accelerated shall we say. And where as by June of 2003 under the zoning approval, we were allowed to occupy 563 units. There is probably not going to be much activity on the site by June of 2003. We also have since that time the zoning, the boundary change issues that were done for the Gaithersburg Elementary. And so all those factors have only in our minds made the situation better than when it was deemed adequate when we were first here with the zoning approval. So we would be happy again to check into any aspect of that your staff would like and we will assist you in anyway we can. And any other questions, we certainly are prepared.

Katz On all the waivers, and know there has been a discussion along the way, but with all the waivers, there is no waiver being suggested for parking. Is that correct?

Sears Oh no, the parking well in excess. Frank what is the total excess? And maybe you can bring that parking study we did? I guess we are for the total site, we are at 387 spaces in excess and we did do and Frank can help me on the details, but what you see here as attached as attachment five is a parking distribution plan. And that plan for each block looked at exactly how many and where those spaces would be. And we worked through this with your staff who both they and us were very pleased with the distribution, the locations and the types of spaces. So you know that isn't even reflecting I believe the garage spaces. In many of these units,

in fact all of them except the two-over-twos, maybe even all of them,
(pause)...

Katz Which is in our code.

Sears Just one space was counted and there are two spaces in each garage.
So it is even more in excess when you consider that.

Katz And Ms. Sears when we looked at this plan before, this was a very
different type of town home than what we've seen in Gaithersburg before I
believe. One of the, and I believe it still correct and please correct me if
I'm wrong, but one of the units that was being looked at had an option of
an elevator. Is that still correct? Can anyone comment on that?

Sears Yes, I think my M/I people are available. This is John.

Berger John Berger, I'm the Vice President of Construction for M/I. And yes what
we looking at doing is offering elevation that would basically be standard
with an elevator so the buyer could purchase that elevation and put it
anywhere in line with that building and have operable elevator for the
floors.

Katz And any idea, not that it has anything to do with this hearing, but of course
everyone is also interested, any ideas to what type of price we are talking
about for these homes.

Berger I would say \$400,000 and up, at least. The price is probably higher than
that, but I think I would comfortable in saying at least over \$400,000.

Katz Ok.

Sears Mr. Sandler wishes he could be here tonight. He was unable to be here, but he sends his regards and he wanted to particularly to share how pleased he was that M/I will be the builder. They have done just fantastic products in Maryland and in other parts of the region. And I think you will find that this can be a true quality product.

Katz Ok. Thank you very much. Any other questions of the speakers? Going once, going twice.

Somerset I assume that Ollie has reviewed this for safe turning radius and adequate snow removal capacity as we know. So if we get two feet, we need to put it somewhere (laughter). It always worries me when road code waivers are proposed.

Felton Yes, staff is comfortable with both the road code waiver and the environmental waiver. We can do the recycling, we can do the snow removal.

Winborne Just to dove tale on that. Emergency vehicle, access and so forth, is all fine.

Felton Absolutely, the fire marshal reviewed it.

Katz Any other questions? Ok. At this time, we would, the Mayor and the Planning Commission would like to hear from anyone in the public on this topic. We ask that you please keep your remarks to no more than three minutes. Any additional testimony that you might have can be submitted to the City in written form and will be a part of the record just as your oral testimony. Please state your name and address for the record. Do we have anyone who would like to come before us on this topic? Please.

Preuninger Hi. I don't want to be the first one. My name is Chantal Preuninger, 4 Sanders Court. Once again I want to applaud you for what you have done to suppress the apartments. It is great, it's incredible; however, I'm a little bit (inaudible). I heard 380 parking lots without counting the garages so that is how many cars I expect in that area. There are that many spaces to park your cars. I think also that our schools and roads still have a problem. I'm not sure if phasing will make it because we are still in a state of woe and money might not come when it expect it. So we might not have new schools or schools fixed. We might not have more spaces for children to come in. I don't think I want to say decrease the number of units more. I think you have done the maximum you could, but I would suggest you think about option like either to reduce the number of bedrooms without touching the luxury inside of the apartments. Or maybe keep the place for people who would not have children or would not have many cars like retired people. So I don't know. I would just let you think about it. Thank you.

Katz Thank you very much. Anyone else in the audience? Please Mr. Harris.

Harris Jim Harris, 304 Saybrooke View Drive, couple of things. First of all, all of us who live over there would like to thank each and every one of you who were involved in bringing about the reduction in the total number of units, we appreciate it. But we also want to bring the issue we always do about the potential for the second entrance into the middle school. We brought that up at every meeting over the past two years. We haven't heard anything back. Is it safe to assume that it is a dead issue?

Katz This is a public hearing. At this point it has not been anything that has been brought up on this site plan, I can tell you that.

Harris Ok. That is one of the things that we have been trying to address with the developer starting back with Odyssey, is the potential for adding that in

and incorporating that into this entrance, into this development off of Girard Street. And we would like for you to very much to consider it. Thank you.

Katz Thank you very much. Anyone else in the audience please? Mr. Marvin.

Marvin Rick Marvin, 223 Little Quarry Road. I like to say that the staff and the Council and the Planning Commission have done an admiral job in coming up with a new plan. I was not happy with earlier one. And this is a vast improvement and it looks like from the elevations that they are showing here tonight, that the architecture is also going to be an improvement over what we've seen of the four previous units of this type. I would just like to congratulate everyone involved in that and that is about all I have.

Katz Thank you Rick. Anyone else please? Ok. It has been suggested that the Planning Commission.....I'm not seeing anyone, is that correct Fred? Fred is my point person over there because I can't see in that corner. It has been suggested that the Planning Commission hold their record open until March 20, 2003 which is 10 days and that the Mayor and Council hold their record open until April 1, 2003, which is 22 days. What is the pleasure of the Planning Commission?

Keller Do I have a motion?

Bauer Madam Chair I move that the Planning Commission hold their record open until March 20, 2003. Are we doing both simultaneously?

Katz Yes. Is that correct?

Schwarz You need to have separate motions.

Bauer I'll do the first one which I guess is the map amendment Z-291(A), to hold the record open until March 20, 2003.

Winborne Second.

Keller All those in favor?

Commission Ayes.

Keller Motion passes (4-0).

Katz The Council for Z-291(A). It has been suggested that we hold our record open until April 1, 2003. What is the pleasure of the Council?

Alster I move that we hold the record open on Z-291(A) for 22 days, until April 1, 2003.

Edens Second.

Katz It's been moved and seconded. All those in favor please say aye?

Council Ayes.

Katz Opposed? Carries unanimously (5-0). And then for SDP-001-006.

Keller Can I have a motion on that?

Bauer I will make the motion that the Planning Commission hold their record open on SDP-01-006 until March 20, 2003, for ten days.

Winborne Second.

Keller All those in favor.

Commission Ayes.

Keller Motion carries 4-0.

Katz And for the Council, the record there again is to be April 1, 2003.

Alster I move that the Mayor and Council keep the record open on SDP-01-006 for 22 days and that is April 1, 2003.

Somerset Second.

Katz It's been moved and seconded. All those in favor please say aye?

Council Ayes.

Katz Opposed? That carries unanimously as well (5-0).

END OF JOINT PUBLIC HEARINGS
March 10, 2003
Z-291(A) and SDP-01-006

Mayor and Council Meeting, 3/10/2003

CITY OF GAITHERSBURG MINUTES OF A SPECIAL MEETING OF THE MAYOR AND CITY COUNCIL AND PLANNING COMMISSION FOR THE PURPOSE OF THE TWO JOINT PUBLIC HEARINGS MARCH 10, 2003

A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting and Somerset. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Planning and Code Administration Director Russel, Community Planning Director Schwarz, Police Lieutenant Elliot, City Attorney Abrams, and Administrative Assistant Stokes. Planning Commissioners present for joint public hearings: Keller, Bauer, Levy, and Winborne.

I. ANNOUNCEMENTS

Council Member Somerset

Announced that a closed executive session was held by the Mayor and City Council on March 3, 2003, to discuss a legal matter. The meeting began at approximately 8:45 p.m. and adjourned at approximately 9:30 p.m.

Mayor Katz

Announced that the Mayor and City Council will conduct a closed executive session on March 17, 2003, following the regular meeting to discuss a personnel matter.

II. PUBLIC HEARINGS

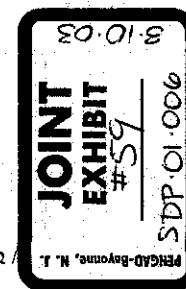
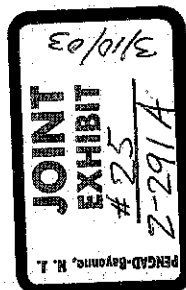
Mayor Katz announced that the City Council and Planning Commission will consolidate the joint public hearings on the following two applications. He stated that additional testimony can be submitted to the City in written form and will be a part of the record just as oral testimony.

JOINT - Z-291(A) - Amend the Approved Zoning Map Amendment Application by Reducing the Unit Count From 727 Dwelling Units (18 Single Family Detached, 146 Single Family Attached, 112 2-Over-2 Condominium and 451 Multi-Family Apartment Units) to 462 Dwelling Units (16 Single Family Detached, 330 Single Family Attached, and 116 2-Over-2 Condominium Units) on Approximately 56 Acres of Land in Accordance With §24-196 of the City Code (Map Amendments). The Property was Annexed into the City of Gaithersburg in 1971 by Resolution No. R-21-71 and Rezoned to MXD (Mixed Use Development) in 2001 by Ordinance O-8-01. The Subject Property is Located East of Goshen Road, Between Mid-County Highway and Girard Street

JOINT - SDP-01-006 - Application Requests Approval of a Schematic Development Plan, Known as Hidden Creek - Land Bay III, in Gaithersburg, Maryland. The Proposed Plan Includes 462 Dwelling Units (16 Single Family Detached, 330 Single Family Attached, and 116 2-Over-2 Condominium Units) on Approximately 56 Acres of Land. This Application Also Requests a Road Code Waiver RC-29 and a Waiver of the Environmental Standards for Development Regulations. The Subject Property is Located East of Goshen Road, Between Mid-County Highway and Girard Street in the Mixed Use Development (MXD) Zone

Community Director Schwarz stated both hearings were advertised on February 21 and 26, 2003, in the Gaithersburg Gazette. At the present time in the record for Z-291(A), there are 23 exhibits. In the record for SDP-01-006, there are 57 exhibits. Ms. Schwarz introduced Ms. Barbara Sears.

Barbara Sears, Linowes and Blocher, representing the applicant, stated that on May 21, 2001, Land Bay III was rezoned to MXD. To implement the Master Plan, the annexation agreement was rezoned to MXD with 727 units. She noted that following the rezoning, an SDP was filed in July 2001 to implement the master plan.



Before that SDP could come to the Mayor and City Council for decision, the residential deferral was imposed and the pending SDP was placed on the deferral. During the one-year deferral period, the area was designated as a special study area and two main concerns of the City came out of the various focus groups, dialogue, and hearings. The two main concerns were the prior approvals of the annexation and the desire to see less density. She stated that terms of an addendum are now in final discussions. Ms. Sears stated that the amendment to the sketch plan is to change what was approved in May of 2001. The changes are for 10.5 acres that is in the southern portion of Land Bay III against Girard Street and also against the stream valley that was previously dedicated and proposed for development of 451 apartments, rental apartments. And as a result of the discussions and special study area, the plan has been modified to provide a total of 181 townhouses in that area, implementing the townhouses on the 10.5 acres, moving away from the multi-family rental apartments.

Ms. Sears responded to Mayor Katz on concerns of school capacity and parking stating that the reduction in density, boundary changes, and the deferral had bettered the situation. She stated that the parking is 387 spaces in excess. Also in addition, there are garage spaces.

Steve Gang, Lessard Architectural Group, reviewed the original sketch plan and the amendment to the sketch plan and their land uses. He gave a brief presentation on the amended sketch plan which has no rental units. He noted that the major design principles are the same as what was incorporated in the original land use and these are what are traditionally found in more traditional neighborhoods as in the City and in the more newer neighborhoods such as Kentlands and Lakelands. Mr. Gang stated there is a mix of uses such as single family detached, two different types of single family attached of which both have integrated garages and detached garages, some 2-over-2 townhouses. Other amendments are interconnected streets with on street parking, approximately 5.3 acres for public parking, and a pedestrian system running from Goshen Road all the way across the boundary and across the property from north to south. Another important consideration to the plan was to allow for the future interconnection to the Summit Hill Shopping Center once it is redeveloped. He explained that the elevations for the 10.5 acres of townhouses designed by MI Homes have significantly more detail with different types of windows, roof materials, alleyways, colors, and open space.

Frank Bosson, Rogers Consulting, reviewed the waivers needed in order to implement the plan. Most of the road code waivers are to provide a pedestrian friendly neighborhood and lower speeds through the Hidden Creek community. One waiver is a stream valley buffer waiver/flood plain waiver for the redesigned sanitary sewer connection to the main truck line down the stream valley. He stated that there are specific requirements requested by the Department of Public Works for the drainage pipes of the stormwater management facilities. The applicant is requesting a stream valley buffer waiver for the stream valley path system. The applicant is also requesting road code waivers to lower speed limits and provide better pedestrian safety by modifying the travel lanes; placing parallel parking along both sides of the roadway; and reducing the curvature of the road. In closing, he stated the development will have a mixture of shade trees and ornamental trees throughout the development.

John Berger, Vice President of Construction for MI Homes, in response to a question regarding the option of an elevator in some of the units stated that they are looking to offer elevations that would basically be standard with an elevator so the buyer could purchase that elevation and have an operable elevator for the floors. The price for the homes would be approximately \$400,000 and up.

Speakers from the public at the hearing:

Chantal Preuninger, 4 Sanders Court, applauded the City Council and Commission for the reduction of units in the plan. She asked the City Council to further consider options of addressing the concerns with the phasing and funding of schools and funding for road improvements.

Jim Harris, 304 Saybrooke View Drive, thanked all involved in achieving the reduction of the number of units. He expressed concern with the developer not considering a second entrance into the middle school off of Girard Street.

Rick Marvin, 223 Little Quarry Road, thanked the City Council, Planning Commission, and staff on the modified plan with improvements to the elevations and architecture.

In response to Council Member Somerset and Planning Commissioner Winborne, Assistant City Manager Felton stated that Engineering Services Director Mumpower has reviewed the plan for safe turning radius for recycling, snow removal, and emergency vehicles. Staff is comfortable with both the road code waiver and the environmental waiver.

There were no other speakers at the hearing.

Motion was made by Commissioner Bauer, seconded by Commissioner Winborne, that the Planning Commission record on Z-291(A), be closed as of March 20, 2003, ten (10) days.

Vote: 4-0

Motion was made by Council Member Alster, seconded by Council Member Edens, that the City Council record on Z-291(A), be closed as of April 1, 2003, twenty-two (22) days.

Vote: 5-0

Motion was made by Commissioner Bauer, seconded by Commissioner Winborne, that the Planning Commission record on SDP-01-006, be closed as of March 20, 2003, ten (10) days.

Vote: 4-0

Motion was made by Council Member Alster, seconded by Council Member Somerset, that the City Council record on SDP-01-006, be closed as of April 1, 2003, twenty-two (22) days.

Vote: 5-0

III. ADJOURNMENT

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 8:05 p.m.

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